

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

CLAYTON ANDREW SCHWERS,

Plaintiff,

v.

CV 15-00237 RB/WPL

CITY OF ALBUQUERQUE,  
MAYOR RICHARD BERRY,  
RAYMOND SCHULTZ, Chief of Police, APD (former),  
CHRISTOPHER KERLIN, APD Officer, and  
JOHN MINGS, APD Officer,

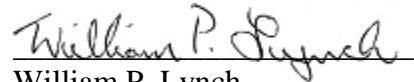
Defendants.

**ORDER DENYING DEFENDANTS' MOTION TO COMPEL II**

The defendants have filed a motion to compel Clayton Andrew Schwerts to respond to the City of Albuquerque's second set of requests for production. (Doc. 51.) As noted in a previous Order, on October 5, 2015, Judge Brack granted the motion to dismiss filed by the City of Albuquerque, Mayor Berry and former Chief of Police Schultz. (Doc. 38.) Although Officers Kerlin and Mings could have joined in the City's second set of requests for production served on Schwerts, D.N.M.LR-Civ. 7.1(a), they did not do so. Because the City of Albuquerque is no longer a defendant in this case, the discovery documents the City served on Schwerts are now moot. The defendants recognize this in their response to Schwerts' motion to compel, in which they state that "[b]ecause Mayor Berry, Chief Schultz and the City of Albuquerque are no longer defendants in this matter, Plaintiff cannot move to compel their responses to his discovery." (Doc. 43 at 1.)

Therefore, the defendants' motion to compel Schwerts to provide further responses to the second set of requests for production served by the City of Albuquerque is denied.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "William P. Lynch", is written over a horizontal line.

William P. Lynch  
United States Magistrate Judge

A true copy of this order was served on the date of entry--via mail or electronic means--to counsel of record and any pro se party as they are shown on the Court's docket.